United Nations A/C.6/55/SR.30

General Assembly
Fifty-fifth session

Official Records

Distr.: General
29 November 2000

Original: English

Sixth Committee

Summary record of the 30th meeting
Held at Headquarters, New York, on Wednesday, 15 November 2000, at 3 p.m.

Chairman: Mr. Politi ..... (Italy)

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The meeting was called to order at 3.15 p.m.

Agenda item 164: Measures to eliminate international terrorism (*continued*) (A/55/37, A/55/179 and Add.1 and A/C.6/55/L.2

1. **Mr. Naidu** (Fiji) expressed his Government's deep regret that it had been unable, for reasons beyond its control, to respond to the annual request for information for inclusion in the Secretary-General's report (A/55/179). The report of the Working Group (A/C.6/55/L.2) showed that that body had done commendable work, and the draft comprehensive convention submitted by India was a service to the international community. Fiji was a party to five of the international conventions against terrorism, namely, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, the Convention on the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The law of Fiji defined terrorism as training, planning, preparation or other activities for the purposes of violent subversion in a foreign country or for the commission of acts of violence in a foreign country. That definition closely reflected the intention and scope of the draft comprehensive convention, which avoided defining terrorism as such. Fiji had recently been concerned with internal, rather than external, acts of terrorism. It would therefore favour a definition aimed at eliminating terrorism both within and beyond the territory of any State. The constitutions and laws of Member States would have to be updated for that purpose. He welcomed the discussions in the Working Group on the definition of terrorism, and hoped that future meetings would reach a definitive conclusion.

2. Two recent enactments in Fiji, on mutual assistance in criminal matters and on the proceeds of crime, made it obligatory to cooperate in criminal investigations, including those involving terrorism and money-laundering. It was necessary to develop mutual assistance in prosecutions and judicial proceedings, as envisaged in the draft convention. Fiji and other Pacific States were working to strengthen their extradition regimes, which should be of value in regional and international efforts to deal with crime in general and terrorism in particular. Fiji's own resources in that field were limited, and it needed cooperative assistance in technical expertise, specialist training and the sharing of information, including the distribution of profiles of international terrorists. Investigations and arrests in recent transborder criminal activities had been helped by collaborative measures, including joint initiatives with Interpol. The improvements to be expected as a result at the national level would further the international fight against terrorism.

3. **Ms. Hallum** (New Zealand) reaffirmed her country's determination to combat terrorism by all means consistent with human rights and the rule of law. No State was immune from well-organized acts of terrorism. Her Government therefore supported the development and implementation of a strong framework of multilateral measures against terrorism. It had recently signed the International Convention for the Suppression of the Financing of Terrorism, and was committed to acceding to the International Convention for the Suppression of Terrorist Bombings. A new comprehensive convention could be very useful in filling gaps in the existing network of treaties. However, care should be taken to avoid duplicating or undercutting existing instruments. It was also important to consider areas in which the new instrument could build on the earlier ones, for instance by covering terrorist acts directed against private as well as public facilities, and ensuring that any exemption applying to acts by armed forces was confined to situations where they were acting in conformity with international law. She commended the efforts of the Ad Hoc Committee to ensure that there would be no safe haven for international terrorism, and urged States which were not yet parties to the existing instruments to accede to them.

4. **Ms. Steains** (Australia), speaking as the coordinator for the draft convention for the suppression of acts of nuclear terrorism, reported on the outcome of her informal consultations with members of the Committee on the draft, and especially on the outstanding issue of scope, covered in article 4, paragraph 2 (A/C.6/53/L.4). Many delegations had shown a constructive and helpful approach to the issue, but it had not been possible to agree on a proposal as the starting point for negotiations in open-ended informal consultations. Several delegations had told her that they preferred to concentrate on the

negotiations on the draft comprehensive convention on international terrorism. That seemed to be logical, since progress in defining terrorism would have positive results for the provision on scope in the earlier draft convention. She intended, however, to continue the bilateral consultations, and invited delegations to express their views and suggestions on the outstanding issue.

5. **Mr. Gomaa** (Egypt), speaking in exercise of the right of reply, said that, if anyone had been trying to politicize the Committee's work, it was the representative of Israel, who at the preceding meeting had made an extensive statement on the peace process which was unrelated to the subject under consideration. His own delegation, by contrast, had expressed its concern about the distinction that should be made between terrorism and liberation movements, such as that of the Palestinian people against Israeli occupation with particular reference to the question of a comprehensive convention on international terrorism. The representative of Israel had taken a statement by the President of Egypt out of context, implying that he had equated atrocities committed by Israeli forces with incidents of stone-throwing by Palestinians, many of them children. The President's statement had not been concerned with the Palestinians' right to engage in armed struggle to attain their national liberation.

6. **Mr. Jilani** (Observer for Palestine) said that he had not intended to make a political statement, but the representative of Israel had made a number of accusations and misrepresentations, and displayed an arrogant and racist attitude. That representative's suggestion that a Palestinian official had said that the Palestinian people were using terrorism to liberate their land or that children were thrust into the front line to get international sympathy was extremely unfortunate. Israel, meanwhile, was subjecting a whole people to a foreign military occupation, a form of apartheid and collective punishment, which could only be called terrorism. Israel was the only country named in 25 Security Council resolutions as an occupying Power holding land by force in violation of international law. If the International Criminal Court were already in operation, the rulers and generals of Israel would have gone on trial for such war crimes as excessive use of force, the illegal arming of settlers and the deliberate killing of civilians, including children. No form of terrorism could be worse than the killing of children, who made up one third of the 200 martyrs of the past few weeks. The United Nations High Commissioner for Human Rights had reported that a disproportionate number of the injuries suffered were to the upper body or head, many from live ammunition or from rubber bullets at close range. In that context, he deplored the armed attack on the convoy carrying the High Commissioner, at a time when she was supposed to be under the protection of the Israeli army.

7. **Mrs. Kalema** (Uganda) said that her delegation condemned all forms of terrorism, regardless of the motive and the identity of the perpetrators. It therefore attached great importance to the elaboration of a comprehensive convention on international terrorism and had followed the discussions concerning the scope of the proposed convention and other matters with great interest. It had reaffirmed its commitment to combat and eliminate terrorism, which was connected with other scourges such as trafficking in drugs and arms. It supported the denial of safe havens to terrorists. It was a party to the International Convention for the Suppression of Terrorist Bombings and was seriously considering acceding to the International Convention for the Suppression of the Financing of Terrorism. It was, however, completely opposed to the politicization by a certain delegation of an issue concerning her country that was being handled in another forum and that it was to be hoped would soon be resolved on the basis of the Lusaka Agreement, implementation of which her Government had commenced.

8. **Mr. Becker** (Israel) said that a number of representatives had attacked his country using extreme and offensive language, distorting the facts and using the Committee to launch partisan accusations. He would not respond in kind; he simply urged that future discussions should be conducted in the professional spirit of consensus that the subject matter demanded. He was not alone in his view.

9. **Mr. Obeid** (Syrian Arab Republic) said that there was no basis for the claim by the representative of Israel that the issue had been "politicized": political considerations, on the basis of international law and United Nations resolutions, were intrinsic to the fight against terrorism and it was therefore impossible to draw a distinction between international law and political factors. The Government of Israel refused to implement United Nations resolutions; it was essential that it should understand the reason for the resistance mounted against its occupation of Palestinian lands.

Agenda item 161: Report of the Committee on Relations with the Host Country (A/55/26 and A/C.6/55/L.9)

10. **Mr. Zackheos** (Cyprus), Chairman of the Committee on Relations with the Host Country, introducing the Committee's report (A/55/26), said that it consisted of four chapters: a brief introduction, a chapter describing the membership, composition, terms of reference and organization of work of the Committee, a chapter dealing with the topics covered by the Committee, and a chapter setting out the Committee's recommendations and conclusions. The two annexes comprised, respectively, a list of topics to be considered by the Committee, and a list of documents issued by the Secretariat in connection with the Committee's work during the period under consideration.

11. The Committee, to which any Member State could send observers, was an important forum for discussing the problems of the diplomatic community in a frank and cooperative atmosphere, and for reporting on them to the General Assembly.

12. **Mr. Alabrune** (France), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia and, in addition, Norway, said that the Committee on Relations with the Host Country had proved to be a remarkable forum for solving the practical problems occasionally encountered by the diplomatic community. He was grateful to the United States administration, and especially its mission to the United Nations, for its efforts in caring for their needs. Member States with a permanent mission in New York had a great interest in the topics covered by the Committee, especially the security of missions and their staff, issues concerning the implementation of the Headquarters Agreement, accommodation, transport, indebtedness of diplomats and health matters. It was important to solve problems relating to insolvency so as to preserve good relations among the diplomatic community, the United Nations, the host country and the people of New York. Insolvency could lead to other difficulties, especially in the matter of accommodation. It was also important to provide enough parking spaces for the diplomatic community.

13. He welcomed the efforts of the host country to ensure the security of missions and their staff, and expressed confidence in its ability to remove obstacles to the smooth operation of the United Nations and the missions accredited to it. Questions relating to the issuance of visas to representatives of Member States and their travel within the host country should be resolved according to the relevant provisions of the Headquarters Agreement.

14. In view of the increasing links between the United Nations and representatives of civil society, he called on the host country to facilitate the smooth running of meetings and conferences at Headquarters which were related to, or held in conjunction with, the sessions of the General Assembly.

15. **Ms. Alvarez Nuñez** (Cuba) said that her country was anxious, in a spirit of cooperation, to contribute to the work of the Committee on Relations with the Host Country and to maintain appropriate conditions for its work. That Committee should focus more on the concerns of Member States and engage in a genuine debate on them, with a view to enabling the host State to play its proper role in complying with its obligations as the seat of the United Nations.

16. The report of the Committee reflected the discussions which had taken place on certain areas of concern, especially the timely issuance of visas and the travel problems encountered by members of missions and of the Secretariat from certain countries. The policy of placing travel restrictions on Cuban diplomats and international civil servants of Cuban nationality was discriminatory and politically motivated, and the practice of regularly refusing applications for travel was abusive and indiscriminate. The reasons given harked back to the days of the Cold War and were irrelevant to current circumstances. The host country claimed to be strongly in favour of broader participation of non-governmental organizations and the private sector in United Nations activities, but it impeded contacts between the Permanent Mission of Cuba and such actors on a daily basis, and regularly refused Cuban diplomats permission to take part in activities organized by such bodies which were directly related to the United Nations, even university-sponsored events or events organized by institutions enjoying the financial support of the United States Government. Applications for travel by the Permanent Representative of Cuba had been refused on grounds of national security, even though the United States Government had repeatedly stated that Cuba did not represent a security threat to

the United States. Moreover, in spite of complying with the procedures laid down by the host country for the issuance of visas, Cuban public officials and experts attending meetings of United Nations organs had been delayed by their tardy issue. She urged the host country to observe the time limits set by its own immigration authorities for that purpose, in accordance with the provisions of the Headquarters Agreement.

17. Visas had also been refused for the attendance of certain presidents and members of national parliaments, including Ricardo Alarcón de Quesada, President of the National Assembly of People's Power of Cuba, at the Inter-Parliamentary Union (IPU) conference held at United Nations Headquarters as part of the preparations for the Millennium Summit and Millennium Assembly. That was a most regrettable reflection of the selective and discriminatory attitude of the authorities of the host country towards the participation of Member States in activities associated with the United Nations. She urged the authorities of the host country to review their position in the light of their international obligations.

18. **Mr. Tarabrin** (Russian Federation) said that the mandate of the Committee on Relations with the Host Country included the consideration of practical questions arising in connection with the activities of the United Nations, safeguarding its status, and the privileges and immunities of missions accredited to the Organization and their staffs. Those were highly complex and sensitive topics. It was gratifying to note, therefore, that the Committee functioned in an atmosphere of openness and mutual trust.

19. For nearly 30 years the Committee had played an active intermediary role in resolving questions affecting the vital interests of States Members of the United Nations in their relations with the host country. He expressed appreciation to the United States authorities, the New York City Commission for the United Nations Consular Corps and Protocol and the members of the Permanent Mission of the United States to the United Nations for their efforts to ensure the normal functioning of the United Nations and the missions of Member States to it.

20. The Millennium Summit and the measures connected with it had highlighted the problem of the granting of visas to persons arriving to take part in such forums. The Committee had been compelled on several occasions to hold special meetings to consider issues arising in connection with the implementation of the Headquarters Agreement and to request an opinion from the United Nations Legal Counsel. It was to be hoped that the host country authorities would have due regard for his opinion and also take into account the views of the delegations concerned.

21. His delegation was concerned at the lack of any progress with regard to the lifting of travel restrictions imposed by the host country on the staff of a number of missions and on United Nations Secretariat staff. His delegation considered such a practice discriminatory and contrary to fundamental human rights instruments, and called on the host country authorities to lift those restrictions as soon as possible.

22. Regrettably, there had been no movement, however slight, on a range of diplomatic parking issues. That question was an important component of the creation and maintenance of normal conditions for the functioning of diplomatic missions in New York in relation to the host country's international obligations.

23. His delegation welcomed the efforts of the Committee to elaborate measures aimed at ensuring a balance between the lawful interests of the citizens of the host country and the New York diplomatic community. What was involved was, in particular, providing suitable conditions for diplomats residing in New York and the frequently interrelated problem of the settlement of diplomatic debts.

24. His delegation was open to discussing any other issues that might be raised by the federal and municipal authorities.

25. His delegation supported the conclusions and recommendations of the Committee on Relations with the Host Country and supported the adoption of draft resolution A/C.6/55/L.9 by consensus.

26. **Mr. Shbani** (Libyan Arab Jamahiriya) said that, as a committed member of the international community, his country attached great importance to the work of the Committee on Relations with the Host Country, which played a key role in alleviating difficulties faced by members of the United Nations diplomatic community in New York. As a member of the Committee, it also participated effectively in its discussions. He appreciated the recommendations and conclusions contained in the Committee's report (A/55/26), but stressed his continuing view that it should devote more time to solving the problems faced

by some diplomatic missions, including that of the Libyan Arab Jamahiriya. On that score, the host country continued to impose exceptional measures on his country in issuing United States entry visas to Libyan diplomats, which adversely affected their work at the United Nations and its agencies. In particular, the issuance of visas was inexplicably delayed for lengthy periods, multiple entry visas were refused and travel restrictions were placed on Libyan diplomats, who were not permitted to go beyond the radius of the five New York boroughs. A ceiling of $1.25 million was also placed on the mission's United States expenses account.

27. It was difficult to accept the pretext of national security considerations which the host country cited as its justification for imposing such exceptional measures, since the Libyan Arab Jamahiriya incontrovertibly complied with its international obligations and with United Nations resolutions. Moreover, as a small country, it was in its interests to establish relations of cooperation and mutual respect with all other States. In addition, despite the seven years during which groundless sanctions had been wrongfully imposed on it, it continued to comply with the principles and purposes of the Charter of the United Nations. He reaffirmed his country's full respect for the laws of the host country and pointed out that it committed no abuses of its diplomatic immunity. He therefore hoped that the host country would review and finally lift the exceptional measures which it applied to the Libyan mission, thus enabling it to conduct its normal work in appropriate circumstances and thereby further the interests of all members of the international community.

28. **Mr. Rosenstock** (United States of America) said that his country had always been honoured to serve as host country to the United Nations and was proud of its record in that regard. Along with that honour came a broad range of treaty obligations and commitments under international law which his Government took very seriously.

29. The Committee on Relations with the Host Country was a valuable forum in which to discuss all issues relating to the presence of the diplomatic community in New York. His Government appreciated the cooperation and constructive spirit of the members of the Committee and the assistance provided by the United Nations Secretariat.

30. Some speakers had implied that the restrictions on travel by members of certain missions violated his Government's legal obligations. While his Government was required to provide and did provide mission staff and delegations with unimpeded access to the Headquarters district and the right to travel on official United Nations business without hindrance, it was not required to permit those individuals to travel to other parts of the country on other business. With regard to entry visas, his Government endeavoured to issue visas to representatives of Member States and others as defined in article IV, section 11, of the Headquarters Agreement on a timely basis and would continue to do so. As to the denial of a visa to one or two participants in the IPU Conference, as the Legal Counsel's opinion made clear, IPU was not a part of the United Nations. His Government had no obligation under the Headquarters Agreement or otherwise to issue visas to attend its conferences. When the applicant in question sought a visa to attend the Millennium Assembly, it had, of course, been granted. His Government would continue to ensure that visas for United Nations meetings were processed within a reasonable period of time.

31. Parking was a problem in all urban centres. His delegation was ready to continue to discuss particular aspects of the issue and to seek common solutions within the framework of the Committee on Relations with the Host Country.

32. **Mr. Moushoutas** (Cyprus), introducing draft resolution A/C.6/55/L.9 on behalf of the sponsors, said that it was mainly an updated version of the previous year's resolution. The three new paragraphs that had been incorporated, namely, the third preambular paragraph and paragraphs 2 and 6, reflected the conclusions and recommendations of the Committee on Relations with the Host Country as contained in paragraph 62 of its report. Lastly, the resolution requested the Secretary-General to remain actively engaged in all aspects of the work of the host country committee and decided that the item should be included in the agenda of the fifty-sixth session. The sponsors hoped that the draft resolution could be adopted without a vote.

33. *Draft resolution A/C.6/55/L.9 was adopted*

Agenda item 159: Report of the International Law Commission on the work of its fifty-second session (*continued*) (A/C.6/55/L.6 and Corr.1 and A/C.6/55/L.21)

34. **The Chairman** drew attention to document A/C.6/55/L.21 on the programme budget implications of draft resolution A/C.6/55/L.6.

35. **Ms. Gnecco** (Colombia) introduced draft resolution A/C.6/54/L.6 and Corr.1, drawing attention in particular to paragraphs 2, 4, 5, 7, 9, 13 and 15, and expressed the hope that, as in previous years, the draft resolution would be adopted by consensus. Two minor revisions should be made to paragraph 12 as contained in point 3 of document A/C.6/55/L.6/Corr.1: the word "members" should be replaced by the word "delegates" and, in the Spanish version only, the words "*consultas oficiosas*" should be replaced by "*conversaciones oficiosos*".

36. **Ms. Quezada** (Chile) said that Chile would join the consensus on the draft resolution, including paragraph 12 concerning the split session of the International Law Commission in 2001. She believed, however, that creation of the conditions referred to in the sixth preambular paragraph depended on the timely availability of the Commission's report in all official languages, well in advance of the debate in the Sixth Committee. She therefore emphasized that publication of the Commission's report should not be delayed by virtue of the split session, since any such delay would hinder the debate and hence the Commission's contribution to the codification and progressive development of international law.

37. *Draft resolution A/C.6/55/L.6 and Corr.1, as orally revised, were adopted.*

Agenda item 162: Establishment of the International Criminal Court (*continued*) (A/C.6/55/L.11)

38. **Mr. Verweij** (Netherlands), introducing draft resolution A/C.6/55/L.11, said that it differed only slightly from the resolution adopted at the previous session. He drew particular attention to the second, third, fourth, sixth and ninth preambular paragraphs, and to paragraphs 2, 3, 4, 9 and 10. It was his understanding that the draft resolution would be adopted without a vote.

39. **Mr. Mikulka** (Secretary of the Committee), referring to the programme budget implications of draft resolution A/C.6/55/L.11, said that the estimated cost of the additional conference services requested in paragraphs 4 and 5 was covered by the provision made under section 2 (General Assembly Affairs and Conference Services) of the programme budget for the biennium 2000-2001. Consequently, no additional appropriation for conference services would be required for that biennium as a result of the adoption of the draft resolution.

40. *Draft resolution A/C.6/55/L.11 was adopted.*

Agenda item 157: Convention on jurisdictional immunities of States and their property (A/C.6/55/L.12 and A/C.6/55/L.19)

41. **Mr. Hafner** (Austria), Chairman of the Working Group of the Sixth Committee, introducing the report of the Working Group (A/C.6/55/L.12), said it was his personal report and did not commit anybody else.

42. The discussions in the Working Group had addressed the five outstanding substantive issues identified in the report of the Working Group on jurisdictional immunities of States and their property of the International Law Commission (A/54/10, annex), namely, (1) Concept of a State for purposes of immunity; (2) Criteria for determining the commercial character of a contract or transaction; (3) Concept of a State enterprise or other entity in relation to commercial transactions; (4) Contracts of employment; and (5) Measures of constraint against State property. In order to move the negotiations forward and to explore both major disagreements and agreements, the Working Group had conducted two readings of the draft articles, taking into account the texts submitted by the Commission in 1991 or suggested by it in 1999.

43. In addition, the Working Group had had an exchange of views on the best way to proceed in order to achieve a generally acceptable solution of the matter of jurisdictional immunities of States and their property.

44. The report explained the history and legal basis of the Working Group. It then described the general exchange of views, which reflected both the remaining differences and the progress already achieved in reducing or eliminating them. Delegations had also referred to the possible forms which the outcome of the deliberations might take, such as a convention or model law or some other form of non-binding instrument.

45. The final part of the report contained suggestions which could constitute a possible basis for further discussion. Each item was introduced by an attempt to identify a common understanding of the issue, followed by proposals in treaty language. Those proposals were not binding on anyone, but should be seen only as an attempt to assist the discussion.

46. As to issue (1), it seemed that the views held by States were not so far apart that some sort of common formulation was out of reach. In the suggestions he had tried to reflect the way in which the situation of a federal State could be accounted for in the article on definitions.

47. Issue (2) had always been critical; however, a general consensus currently seemed to exist, according to which State immunities were of a relative nature. Consequently, the discussion now centred around the question of how to delimit the fields where States still enjoyed immunity and those where they no longer did so. Despite the difficulties of that task, it had been possible to reduce the alternatives.

48. With regard to issue (3), it appeared that the gap between the views of different States could be narrowed so that the alternatives could again be reduced substantially.

49. It seemed also that, as far as issue (4) was concerned, a certain broad field of agreement could be established, irrespective of the fact that differences remained as to whether or not members of the administrative and technical staff of a diplomatic mission should be included in the group addressed by the relevant provision.

50. Issue (5) was undoubtedly the most difficult. Various ways of reaching a common solution had been explored, but none of them had so far received the unconditional support of all delegations.

51. **Mr. Hilger** (Germany), introducing draft resolution A/C.6/55/L.19 on behalf of the sponsors, drew attention to a number of revisions. The last words of the third preambular paragraph should read: "... resolutions 53/98 of 8 December 1998 and 54/101 of 9 December 1999". In paragraph 3, the words "to further" should be followed by the words "the work done,". The main purpose of the provisions of paragraph 3 was to resolve outstanding issues and bridge any gaps that remained. The use of the word "instrument" was deliberately vague, for it was the key to achieving an outcome that would be acceptable to all. Chile, the Czech Republic, Ecuador, Finland, Georgia, Guatemala, Hungary, Ireland, Italy, Japan, Malta, the Netherlands, Peru, Portugal, Romania, Slovakia, Spain, the Sudan, Uganda and Ukraine had joined the sponsors of the draft resolution.

52. **Mr. Alabrune** (France) expressed regret that the report of the Working Group of the Sixth Committee (A/C.6/55/L.12) had appeared in only one of the official languages of the United Nations. Despite the promise that it would appear in the other languages within the next 24 hours, it had been wrong to flout the normal practice for the sake of speed.

53. **The Chairman** said that, although the document had been issued as early as possible in the form in which it was available, he would ensure that, in future, documents would be issued in all languages simultaneously.

The meeting rose at 5.20 p.m.